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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

11 ROBERT BURNS, Chairman  
12 BOYD DUNN  
13 SANDRA D. KENNEDY  
14 JUSTIN OLSON  
15 LEA MÁRQUEZ PETERSON

16 IN THE MATTER OF THE APPLICATION  
17 OF ARIZONA PUBLIC SERVICE  
18 COMPANY FOR A HEARING TO  
19 DETERMINE THE FAIR VALUE OF THE  
20 UTILITY PROPERTY OF THE COMPANY  
21 FOR RATEMAKING PURPOSES, TO FIX A  
22 JUST AND REASONABLE RATE OF  
23 RETURN THEREON, TO APPROVE RATE  
24 SCHEDULES DESIGNED TO DEVELOP  
25 SUCH RETURN

DOCKET NO. E-01345A-19-0236

NOTICE OF FILING SURREBUTTAL  
TESTIMONY OF JONATHAN NEZ,  
PRESIDENT OF THE NAVAJO  
NATION

26 The Navajo Nation hereby provides notice of filing the surrebuttal testimony of President  
27 Jonathan Nez of the Navajo Nation in the above-referenced matter.

28 Dated this 4th day of December, 2020.

THE NAVAJO NATION

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**CERTIFICATE OF SERVICE**

ORIGINAL of the Navajo Nation's Notice of Filing Surrebuttal Testimony of Jonathan Nez, President of the Navajo Nation electronically filed and two (2) copies mailed this 4th day of December, 2020, with:

Arizona Corporation Commission  
Docket Control Center  
1200 West Washington Street  
Phoenix, AZ 85007-2996

COPIES of the foregoing mailed/mailed this 4th day of December, 2020 to the persons identified on the attached service list (3 pages).

  
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April A. Quinn, Esq.



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ROBERT BURNS, Chairman  
BOYD DUNN  
SANDRA D. KENNEDY  
JUSTIN OLSON  
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1 **I. INTRODUCTION**

2  
3 **Q. PLEASE STATE YOUR NAME, TITLE AND CORRESPONDENCE ADDRESS**  
4 **FOR THE RECORD.**

5 A: My name is Jonathan Nez. I am the President of the Navajo Nation. My address is Post  
6 Office Box 7440, Window Rock, AZ 86515.

7 **Q. HAVE YOU FILED TESTIMONY PREVIOUSLY IN THIS PROCEEDING?**

8 A. Yes, I filed direct testimony on October 2, 2020, explaining the need for APS and the Arizona  
9 Corporation Commission ("ACC" or "Commission") to consider the effects on the Navajo Nation of  
10 APS's retiring coal-fired generation at the Four Corners Power Plant ("FCPP"), Navajo Generating  
11 Station ("NGS"), and the Cholla Power Plant ("Cholla"), including the effects on associated coal  
12 mines. Specifically, I recommended that APS provide direct financial transition aid to communities  
13 within the Navajo Nation; that the Commission address the Just Energy Transition ("JET"); that the  
14 Commission, APS, and the Navajo Nation work together to develop renewable energy projects on  
15 the Navajo Nation; that APS significantly increase electrification assistance and invest in local water  
16 access in and around the Nation; and that the Commission require APS to provide adequate notice to  
17 communities of impending coal plant closures.  
18  
19

20 **II. AGREEMENT WITH APS REGARDING JUST TRANSITION**

21  
22 **Q. HAS THE NATION COMMUNICATED WITH APS REGARDING THE JUST**  
23 **ENERGY TRANSITION ISSUE SINCE THE FILING OF YOUR TESTIMONY?**

24 A. Yes, we have had ongoing discussions with APS which have been remarkably productive.  
25 The Nation and APS have agreed upon a set of programs and mechanisms to resolve the JET issue  
26 and to address community-transition assistance for coal-reliant communities in the vicinity of FCPP,  
27 Cholla, and NGS ("Coal-Community Transitions" or "CCT"). The agreement between APS and the  
28 Nation ("Agreement") includes many specific details and elements that require Commission approval.



1 Q. PLEASE DESCRIBE APS'S COMMITMENT TO THE NATION REGARDING JUST  
2 TRANSITION.

3 A. APS and the Nation have agreed:

- 4 • APS shall provide a \$100 million CCT financial commitment to the Navajo Nation, which  
5 shall be paid out over 10 years beginning in 2021. APS shall recover this CCT financial  
6 commitment through a dedicated cost-recovery mechanism, subject to Commission approval.  
7 To the extent that cost recovery is not approved in full, or is otherwise reduced, impaired, or  
8 eliminated by the ACC, APS's CCT financial commitment shall be reduced or eliminated  
9 accordingly. However, if the ACC does not approve cost-recovery or authorizes recovery of  
10 a reduced amount, APS shall continue to work with the Navajo Nation to secure full funding  
11 through a cost-recovery mechanism in future proceedings, or through another cost recovery  
12 method to be approved by the ACC in a future proceeding or through securitization.  
13  
14  
15 • APS shall submit a proposal to the ACC to modify APS's distribution line extension policy  
16 within the Navajo Nation, such that APS distribution lines can be extended up to 2,000 feet  
17 within the Navajo Nation at no cost to APS's Navajo customers. If it is determined that a line  
18 extension policy longer than 2,000 feet would have a greater impact on the ability to electrify  
19 homes, APS and the Nation will work together to identify a more appropriate, longer line  
20 extension threshold and will seek Commission approval of that updated line extension policy.  
21  
22  
23 • APS also will:
  - 24 ○ Conduct or pay for a census of unelectrified homes and businesses in the APS service  
25 territory within the Navajo Nation, to be completed within one year after execution of  
26 a final and definitive CCT agreement;



- Prepare an assessment, to be submitted to the ACC and the Nation, regarding the effectiveness of the 2,000 feet proposed extension to APS's distribution line extension policy (described above); and
  - Commit an additional \$10 million (split 50/50 between APS shareholder contributions and a dedicated ACC-approved recovery mechanism) towards additional home and business electrification projects within the Navajo Nation.
- To the extent authorized by the Commission, APS shall both: (1) seek and solicit one or more location-targeted proposals to procure at least 250 MW of renewable electricity generation capacity to be constructed within the Navajo Nation and to deliver electricity to APS customers over the next 24 months; and (2) seek and solicit one or more additional location-targeted proposals, over a period of 12 months following the final retirement of FCPP, seeking the addition of at least 350 MW of renewable electricity generation capacity sited within the Navajo Nation or neighboring communities and to deliver electricity to APS customers. APS shall maintain discretion as to which proposals, if any, it selects for procurement, based upon the selection criteria APS develops for proposal solicitation along with any necessary ACC approvals. APS's selection criteria shall give preference to proposals associated with renewable energy projects located in the same geographic vicinity as FCPP or NGS, but such location shall not be a requirement for selection of a given proposal.
  - For the purposes of transmission line development to support the delivery of renewable energy from new APS renewable generation procurement in and around the Nation, APS shareholders shall contribute \$2.5 million per year to the Nation during the time period from when FCPP permanently retires (or 2032, whichever is earlier) and ending at the end of 2038.



- 1 • No later than two years prior to the permanent retirement of FCPP, APS shareholders shall  
2 contribute \$1.25 million to a Navajo economic development organization designated by the  
3 Nation. APS's \$1.25 million commitment shall be paid to such designated Navajo economic  
4 development organization in five equal annual payments of \$250,000.  
5
- 6 • APS shall support the Nation's pursuit of water rights from the San Juan River that are  
7 currently associated with FCPP and San Juan Generating Station.  
8
- 9 • In addition, APS commits that it will support the Navajo Nation and other coalitions that may  
10 develop who seek to secure federal, state, or other funding for CCT assistance, as requested.  
11 APS also commits that it shall support and encourage the other FCPP Participants to  
12 participate in making similar CCT commitments of support.  
13
- 14 • APS shall prepare job re-deployment offers within the APS organization to all APS Navajo  
15 employees at Cholla and FCPP at least six months prior to the closure of each plant  
16 respectively.  
17

18 **Q. HOW DO THE ELEMENTS OF THE AGREEMENT WITH APS COMPARE TO**  
19 **THE RECOMMENDATIONS IN YOUR DIRECT TESTIMONY?**

20 A. The Agreement either directly or indirectly addresses the issues and recommendations that I  
21 included in my Direct Testimony. Consequently, I strongly support the Agreement and ask the  
22 Commission to approve the elements of the Agreement that require Commission approval.  
23

24 In my Direct Testimony, I recommended that: (1) APS should commit to providing direct  
25 financial transition aid to communities within the Navajo Nation; (2) if not in this rate case, the  
26 Commission should commence a separate docket proceeding on the Just Transition; (3) the  
27 Commission, APS, and the Navajo Nation should work together to develop renewable energy projects  
28



1 on the Navajo Nation; and (4) APS should significantly increase electrification assistance and invest  
2 in local water access.

3  
4 The Agreement fits these recommendations because it: (1) includes APS's commitment to  
5 provide direct financial transition aid to the communities in the Nation; (2) addresses APS's role in  
6 the Just Transition, subject to Commission regulation, (3) creates commitments and a roadmap for  
7 the addition of new renewable generation by APS on the Navajo Nation; and (4) includes APS's  
8 commitment to help the Nation pursue water rights from the San Juan River.

9  
10 **Q. IN YOUR DIRECT TESTIMONY, YOU NOTED THE NEED FOR THE NATION TO**  
11 **RECEIVE AS MUCH NOTICE AS POSSIBLE BEFORE THE RETIREMENT OF POWER**  
12 **PLANTS ON OR ASSOCIATED WITH THE NATION. DO APS'S COMMITMENTS HELP**  
13 **ACHIEVE THIS GOAL?**

14 A. Yes. The commitments include payments from APS to a Navajo economic development  
15 organization beginning two years prior to the permanent retirement of FCPP. In addition to its  
16 primary function as a tool for helping mitigate the economic harm to the Nation that will come from  
17 the closure of FCPP, the timing of the payments means that the Nation will have at least two years  
18 notice before the permanent retirement of FCPP. This advanced notice is significant to the Nation as  
19 it has to prepare for a time without the coal plant.

20 **Q. ASSUMING THAT THE COMMISSION APPROVES APS'S COMMITMENTS TO**  
21 **THE NATION AND APS FULFILLS THOSE COMMITMENTS, DOES THE NATION**  
22 **BELIEVE THAT APS'S OBLIGATIONS RELATED TO THE JUST ENERGY**  
23 **TRANSITION WILL BE FULLY ADDRESSED?**

24 A. Yes. The Nation will not return to the Commission for additional commitments from APS  
25 regarding the JET assuming that the current agreement is approved by the Commission and entirely  
26 fulfilled by APS. The Agreement provides the Commission, APS, and the Nation significant certainty  
27 and transparency regarding the long-term resolution of the JET that likely would not have been  
28 possible absent the Agreement.



1 **Q. WHAT PROCESS DO YOU ENVISION FOR CCT and JET GOING FORWARD?**

2 A. In my Direct Testimony, I outlined the need for the creation of a Just Transition Council that  
3 would bring the various Just Transition stakeholders together to oversee coal plant retirement  
4 planning, as well as to provide the Commission and the utilities an opportunity to remain engaged in  
5 these issues as the retirement dates for the plants nears. I still believe that such a Council could be  
6 helpful, providing a forum for all impacted communities to provide input to the Nation as well as the  
7 Commission and the utilities on renewable energy development, electrification needs, transmission  
8 development, and economic development efforts. The Nation would lead this Council, but its  
9 membership could include local community leaders, legislators, NGOs, as well as Commission and  
10 utility representatives. Additionally, the Commission could establish an ongoing docket designed to  
11 allow the Commission and stakeholders to monitor the status of CCT and JET progress on the Nation  
12 and in other areas of Arizona where coal plant closures are occurring.

13  
14  
15 **Q. HAVE YOU REVIEWED APS'S REPLY TESTIMONY RELATED TO THE JUST**  
16 **ENERGY TRANSITION?**

17 A: Yes. APS witnesses Barbara Lockwood and Jeff Guldner each testify about the Just Energy  
18 Transition. Their testimonies generally mirror the Agreement terms that I described above.

19  
20 **Q. DO YOU BELIEVE THAT APS'S REPLY TESTIMONY RELATED TO THE JUST**  
21 **ENERGY TRANSITION IS CONSISTENT WITH THE AGREEMENT BETWEEN APS**  
22 **AND THE NATION?**

23 A. Yes.

24 **Q. FROM YOUR PERSPECTIVE AS PRESIDENT OF THE NAVAJO NATION,**  
25 **PLEASE DESCRIBE WHY THE NATION SUPPORTS THE AGREEMENT BETWEEN**  
26 **THE NATION AND APS.**

27 A. The Agreement between the Nation and APS offers a landmark solution to the Just Energy  
28 Transition issue and will materially help the people of the Nation. The Agreement helps achieve rural  
electrification on the Nation, improves Navajo access to much needed water, offers resources for



1 economic development for the portions of the Nation most adversely affected by the retirement of the  
2 coal plants, establishes an employment transition plan for Navajos employed by APS at the plants,  
3 and helps the Nation itself as we adjust to a world without the coal plants which have been so critical  
4 to our economy for decades. Additionally, the Agreement includes a forward-looking partnership  
5 between APS and the Nation for the development of significant renewable resources in and around  
6 the Nation. These renewable facilities in some respects can provide the Nation an economic successor  
7 to the retiring coal plants.  
8

9  
10 **Q. DO YOU RECOMMEND THAT THE COMMISSION APPROVE THE AGREEMENT?**

11 A. Yes. APS has agreed to contribute significant shareholder funds and to greatly help the Nation  
12 in its pursuit of much needed water resources in the Agreement, but several elements of the  
13 Agreement require Commission approval. The combination of commitments from APS will benefit  
14 the Nation and our people for decades to come. It will help us grow closer to the goal of universal  
15 electric service within the Nation, which will fundamentally improve health, safety, and economic  
16 opportunity within the Nation--clearly making it in the public interest. It is for these reasons that I  
17 ask the Commission to approve the Agreement as part of its final decision in this proceeding.  
18

19  
20 **III. APS'S PROPOSED CLEAN ENERGY SURCHARGE/ADVANCED ENERGY**  
21 **MECHANISM**

22 **Q. WHAT IS YOUR POSITION REGARDING APS'S PROPOSED CLEAN ENERGY**  
23 **SURCHARGE?**

24 A. I support APS's efforts to increase the use of renewable generation sources and to address the  
25 issues related with the transition from coal. I also recognize that the transition to more renewables  
26 cannot be free. APS should be entitled to recover reasonable costs associated with the transition to  
27 cleaner, renewable technologies. The Advanced Energy Mechanism appears to be a reasonable way  
28 to do this. It also is a mechanism that should, at least in the near term, be utilized to recover the \$100



1 million CCT funding (\$10 million per year beginning in 2021) agreed to between APS and the Nation  
2 and hopefully approved by this Commission. Alternatively, the Nation believes those funds could be  
3 collected through APS's base rates.

#### 4 5 IV. SECURITIZATION

6 **Q. ARE YOU AWARE OF APS'S TESTIMONY SUPPORTIVE SECURITIZATION**  
7 **FOR ITS COAL FLEET?**

8 A. Yes.

9 **Q. WHAT IS THE NATION'S POSITION REGARDING SECURITIZATION?**

10 A. The Nation supports securitization and in my Direct Testimony, I urged the Commission and  
11 APS to consider securitization as a cost-effective tool for addressing a Just Transition for the Nation  
12 and communities surrounding the APS coal plants. APS witness Bradley J. Albert testifies that  
13 securitization in place when the FCPP is scheduled to retire in 2031 would produce savings of \$232  
14 million for ratepayers. Based on the calculations of Mr. Albert, the potential savings would be  
15 significant and would benefit the Nation and other APS customers; so, it seems like something that  
16 APS and the Commission should pursue and which could be in the public interest.

#### 17 18 V. EMISSION CONTROLS AT FOUR CORNERS POWER PLANT

19 **Q. ARE YOU AWARE OF APS'S PROPOSAL TO ADD EMISSION CONTROLS AT**  
20 **THE FOUR CORNERS POWER PLANT?**

21 A. Yes.

22 **Q. WHAT IS THE NATION'S POSITION REGARDING THE PROPOSED ADDITION**  
23 **OF THE EMISSION CONTROLS?**

24 A. The Nation supports the addition of the emission controls, and believes that the Commission  
25 should approve cost recovery of the controls in this rate case, as outlined in APS' Application. I am  
26 not an engineer and cannot speak to the specific effects on emissions that the controls are achieving  
27 but reducing emissions from FCPP has likely already prolonged the operating life of FCPP and  
28 reduces its emissions while it operates. As I described in detail in my Direct Testimony, the closure



1 of power plants associated with the Nation hurts our economy and removes well-paying jobs from  
2 our community. The addition of emission controls should continue to extend the life of FCPP and,  
3 by extension, its economic contributions to the Nation and the Navajos who work at the plant.  
4 Further, the addition of the emission controls is reducing the pollutants emitted near FCPP, which  
5 benefits the Nation. Consequently, the proposed addition of emission controls seems to be beneficial  
6 to the Nation and nearby communities, making cost recovery of these controls in the public interest.  
7

8 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

9 **A.** Yes, it does.  
10

11 **V. CONCLUSION**

12 **Q: DO YOU HAVE ANY CLOSING COMMENTS?**

13 **A:** The Nation is so pleased by the Agreement that it has reached with APS because it offers a  
14 path for the transition of Navajo workers from coal-fired power plants and mines to new roles and  
15 sets the stage for APS, the Commission, and the Nation to become leaders in renewable generation.  
16 Further, the Agreement addresses the economic harm that closing mines and power plants inflicts  
17 on the Nation.  
18

19 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

20 **A.** Yes  
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